

General Information Letter: Condominium homeowners' association is subject to Illinois income tax if it has federal taxable income.

June 19, 2002

Dear:

This is in response to your letter dated March 18, 2002 in which you state the following:

This letter is to introduce our condominium homeowners association to U.S. and State of Illinois revenue agencies. We want to know whether the ASSOCIATION needs to file federal and state income taxes in 2002 and beyond.

The ASSOCIATION is a 3-unit, 3 owner homeowners association established solely to maintain a brick, vintage 3-flat located in the TOWNSHIP of CITY, Illinois. Each owner has a 33.33% interest in the common elements.

Condominium Association Income Status:

- All income to the Association comes from assessments paid by condominium homeowners.
- The Association operates out of a non-interest bearing checking account with BANK.
- The Association earns no interest from a saving account, money market account or Certificate of Deposit.
- The Association has no leases, contracts and earns no rental income.
- The Association does not make money buying and selling real estate.
- The Association does not make money performing or services to others.

Condominium Association Expense Status:

- All expenses are for property maintenance and improvement.
- All expenses are paid from the checking account.

Please find attached the 2001 tax returns. Please note that no U.S. or Illinois income taxes are due. The assessments paid by the owners constitute "exempt function income." We plan to continue to operate the Association with "no taxable income."

Let us know if we need to file taxes in 2002 and beyond.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the Department's website: <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Calculation of Illinois Income Tax

In general, Illinois follows the federal government in questions concerning a charitable group's status

as an exempt organization. Section 205 of the Illinois Income Tax Act ("IITA"), 35 ILCS 5/101 et seq, explains exempt organizations:

(a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal Revenue Code shall not be determined under Section 203 of this Act, but shall be its unrelated business taxable income as determined under Section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by Section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

Your letter does not indicate that your organization has been determined by the Internal Revenue Service to be exempt from federal income taxes under Section 501(a) of the Internal Revenue Code. If it has, then your organization would also be exempt from determining base income under Section 203 of the IITA except for any unrelated business taxable income as determined by Section 512 of the Internal Revenue Code.

If your organization obtains a determination by the Internal Revenue Service that it is exempt from federal income taxes, it will need to register with the Illinois Department of Revenue. As mentioned above, should you qualify as an exempt organization under the Internal Revenue Code, your organization will be subject to Illinois income tax on any unrelated business taxable income. Such income must be reported by the exempt organization on Form IL-990-T.

It appears from your letter that ASSOCIATION has not obtained a determination from the Internal Revenue Service that it is exempt from federal income taxes. As such, it will be required to determine its Illinois base income as determined under Section 203 of the IITA.

Filing Illinois Income Tax Returns

Section 502(a) of the IITA describes when an Illinois income tax return is required. Pursuant to Section 502(a), an Illinois income tax return is required in two situations. The first situation is when a taxpayer is liable for Illinois income tax. The second situation is, in the case of a corporation qualified to do business in Illinois, when the taxpayer is required to file a federal income tax return, regardless of whether such person is liable for Illinois income tax.

From the information contained in your letter, ASSOCIATION maintains property located in Illinois. As such, ASSOCIATION is conducting business in Illinois and will need to complete Form NUC-1. Enclosed you will find a copy of the Department's NUC-1 Illinois Business Registration form along with the instructions.

In summary, ASSOCIATION will need to register with the department by completing the enclosed NUC-1 form and may need to file Illinois income tax returns.

As stated above, this is a general information letter that does not constitute a statement of policy either applying, interpreting or prescribing tax law. Please be advised that a GIL is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

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Sincerely,

Matthew S. Crain

Staff Attorney -- Income Tax